

# SENATE BILL 863

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By: **Senators Lenett, Harrington, King, Madaleno, Pugh, Raskin, and Rosapepe**

Introduced and read first time: February 12, 2010

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation – Loans Secured by Residential Real Property – Late or**  
3 **Delinquency Charges and Crediting of Payments**

4 FOR the purpose of requiring all payments or portions of payments made on a certain  
5 consumer loan during a certain grace period to be credited in a certain manner;  
6 prohibiting a late or delinquency charge from being charged on a certain  
7 consumer loan unless a scheduled payment is not paid in full during the grace  
8 period; altering the contents of a notice of intent to foreclose on certain  
9 residential property; defining a certain term; and generally relating to late or  
10 delinquency charges or penalties and crediting payments on certain loans.

11 BY repealing and reenacting, with amendments,  
12 Article – Commercial Law  
13 Section 12–1008  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume and 2009 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Real Property  
18 Section 7–105.1(c)  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2009 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Commercial Law**

24 12–1008.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) If the agreement governing a loan permits, a credit grantor may:

2 (1) For a nonconsumer borrower, charge a higher periodic percentage  
3 rate or rates of interest on the amount of outstanding unpaid payments or portions of  
4 payments under the loan which are in default; and

5 (2) For any borrower, impose:

6 (i) A late or delinquency charge on payment or portions of  
7 payments; and

8 (ii) If payment is made with a check that is dishonored on the  
9 second presentment, a charge not to exceed \$15.

10 (b) **[In] SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN** the case of a  
11 loan to a consumer borrower, no late or delinquency charge may be charged unless the  
12 agreement, note, or other evidence of the loan permits. No more than 1 late or  
13 delinquency charge may be imposed for any single payment or portion of payment,  
14 regardless of the period during which it remains in default.

15 (c) **[For] SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR** the  
16 purposes of subsection (b) of this section, all payments by the borrower shall be  
17 applied to satisfaction of scheduled payments in the order in which they become due.

18 **(D) (1) IN THIS SUBSECTION, "GRACE PERIOD" MEANS THE PERIOD**  
19 **BETWEEN THE DATE ON WHICH A SCHEDULED PAYMENT IS DUE AND THE DATE**  
20 **AFTER WHICH THE BORROWER MAY BE CHARGED A LATE OR DELINQUENCY**  
21 **CHARGE UNDER THE TERMS OF THE AGREEMENT, NOTE, OR OTHER EVIDENCE**  
22 **OF THE LOAN.**

23 **(2) IN THE CASE OF A LOAN TO A CONSUMER BORROWER THAT IS**  
24 **SECURED BY A RESIDENTIAL REAL PROPERTY:**

25 **(I) ALL PAYMENTS OR PORTIONS OF PAYMENTS MADE**  
26 **DURING A GRACE PERIOD SHALL BE CREDITED TO THE PORTION OF THE**  
27 **PRINCIPAL BALANCE OF THE LOAN AND INTEREST DUE ON THE SCHEDULED**  
28 **PAYMENT; AND**

29 **(II) A LATE OR DELINQUENCY CHARGE MAY NOT BE**  
30 **CHARGED UNLESS THE SCHEDULED PAYMENT IS NOT PAID IN FULL DURING THE**  
31 **GRACE PERIOD.**

32 **[(d)] (E)** Charges permitted under this section may not be considered  
33 interest or finance charges under the agreement.

1 7-105.1.

2 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least  
3 45 days before the filing of an action to foreclose a mortgage or deed of trust on  
4 residential property, the secured party shall send a written notice of intent to foreclose  
5 to the mortgagor or grantor and the record owner.

6 (2) The notice of intent to foreclose shall be sent:

7 (i) By certified mail, postage prepaid, return receipt requested,  
8 bearing a postmark from the United States Postal Service; and

9 (ii) By first-class mail.

10 (3) A copy of the notice of intent to foreclose shall be sent to the  
11 Commissioner of Financial Regulation.

12 (4) The notice of intent to foreclose shall:

13 (i) Be in the form that the Commissioner of Financial  
14 Regulation prescribes by regulation; and

15 (ii) Contain:

16 1. The name and telephone number of:

17 A. The secured party;

18 B. The mortgage servicer, if applicable; and

19 C. An agent of the secured party who is authorized to  
20 modify the terms of the mortgage loan;

21 2. The name and license number of the Maryland  
22 mortgage lender and mortgage originator, if applicable;

23 3. The amount required to cure the default and reinstate  
24 the loan, including all past due payments, penalties, and fees; [and]

25 4. **AN ITEMIZED ACCOUNTING OF THE AMOUNTS**  
26 **THAT HAVE BEEN CREDITED TO PRINCIPAL AND INTEREST DUE ON THE**  
27 **MORTGAGE LOAN, PENALTIES, AND FEES; AND**

28 [4.] 5. Any other information that the Commissioner  
29 of Financial Regulation requires by regulation.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2    October 1, 2010.